

LFC Requester:	SCOTT SANCHEZ
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 22FEB25 *Check all that apply:*
Bill Number: SB467 Original Correction
 Amendment Substitute

Sponsor: Antonio Maestas **Agency Name and Code** 790 – Department of Public Safety
Short Title: CRIMINAL RECORD ORDERS & EXPUNGEMENT **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 467 (SB467) makes changes to several provisions of law relating to expungement of criminal records. Removes the 30-day time requirement for the court to issue an order of expungement; removes the requirement for notice of petitions for expungement to the Department of Public Safety and law enforcement agencies in certain circumstances; removes embezzlement as a qualifying offense for expungement.

FISCAL IMPLICATIONS

While SB 467 aims to streamline the expungement process and reduce administrative burden, it will likely increase operational costs for the Law Enforcement Records Bureau (LERB). The elimination of direct notification from the courts places the responsibility on LERB to develop independent tracking mechanisms to capture expungement orders effectively. This shift requires significant modifications to technology infrastructure to ensure accurate record updates and prevent discrepancies between state and federal criminal history databases.

Staffing costs will rise due to the need for increased verification processes, legal review, and active monitoring of court actions. Without a structured notification system, LERB must allocate personnel to identify, verify, and process expungements, ensuring compliance with federal and state reporting standards. To manage this workload, hiring three law clerks is essential to maintain record integrity, uphold due process, and prevent legal challenges stemming from improper expungements.

Under the supervision of agency counsel, the law clerks will play a critical role in conducting extensive legal research, drafting legal documents, and ensuring compliance with existing expungement laws under NMSA 1978, § 29-3A-3 et seq. They will also be responsible for coordinating with attorneys and reviewing court records to verify eligibility criteria for expungements, ensuring that LERB updates criminal history databases accurately and promptly. These positions are necessary to mitigate the risk of wrongful record retention or deletion, which could result in legal liabilities, background check errors, and potential litigation costs.

Furthermore, the bill would necessitate comprehensive staff training on new expungement protocols, heightened quality control measures, and proactive audits to verify record accuracy. Missed or erroneous expungements could lead to costly legal challenges, compliance violations, and increased workload in correcting records. These anticipated costs will likely exceed any administrative savings from reduced notification processing, reinforcing the need for additional personnel and system upgrades to ensure LERB's ability to manage expungements effectively.

SIGNIFICANT ISSUES

The removal of the DPS notification requirement presents critical concerns for LERB's statutory responsibilities. As New Mexico's designated criminal history repository, LERB must maintain and update records in federal systems including III, NCIC, and NICS. Without direct notification, LERB cannot ensure timely updates to these databases, potentially violating federal regulations under 28 CFR Part 20. The bill also impacts the RAP Back program, which requires ongoing criminal history updates for subscribing agencies. Additionally, removing embezzlement from non-expungeable offenses raises concerns about financial crime screening and public safety.

PERFORMANCE IMPLICATIONS

The bill would significantly affect LERB's ability to maintain its current processing standards: 1-3 days for initial processing, 5-7 days for legal review, and 1-2 days for final processing and federal updates. Without direct notification, staff would need new methods to track expungement orders, likely causing processing delays and increasing the risk of missed updates. This could compromise LERB's ability to maintain accurate criminal history records and meet federal reporting obligations. The changes would particularly impact background screening accuracy for sensitive positions in financial institutions, government agencies, childcare, and law

enforcement.

ADMINISTRATIVE IMPLICATIONS

LERB would need to implement substantial administrative changes, including:

- Developing new tracking systems for court orders.
- Creating alternative notification verification processes.
- Implementing additional quality control measures.
- Modifying federal database update procedures.
- Establishing new compliance protocols.
- Revising staff training materials.
- Creating new documentation procedures.
- Developing independent audit systems.
- Maintaining RAP Back program integrity.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill must align with multiple federal regulations including 28 CFR Part 20, FBI CJIS Security Policy, NICS requirements, and III participation standards. It intersects with state laws including the New Mexico Criminal Record Screening Act and Arrest Record Information Act. The changes could conflict with federal record retention policies and RAP Back program requirements, potentially affecting employers conducting FBI background checks.

TECHNICAL ISSUES

Implementation would require significant technical updates to LERB's systems, including database modifications, new tracking mechanisms, and enhanced security measures. The bill lacks clear guidelines for ensuring expungement order compliance and updating federal databases. Without explicit procedural safeguards, there's high risk of record discrepancies between state and federal systems.

OTHER SUBSTANTIVE ISSUES

Key concerns include maintaining accurate criminal history records, ensuring proper federal database updates, preserving documentation chains of custody, and maintaining statistical reporting accuracy. The removal of embezzlement from non-expungable offenses creates public safety concerns, particularly for positions requiring financial trust. The bill could affect LERB's ability to provide accurate data to stakeholders and maintain proper coordination with other criminal justice agencies.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Maintaining current law would preserve essential safeguards for criminal history record accuracy. The existing system, while more administratively complex, ensures proper notification and processing of expungement

orders. It maintains LERB's ability to effectively update federal databases and comply with regulations. While current procedures require more administrative resources, they provide crucial checks and balances for maintaining accurate records and proper communication between criminal justice agencies

AMENDMENTS

None at this time.